

REMARKS

Claim 1 is currently amended. Claims 2 and 6-23 are canceled. Claims 3-5 are previously presented.

Section 102 - Takamatsu

Claim 1

Claim 1 is rejected under 35 USC § 102(b) as being anticipated by Takamatsu, U. S. Patent No. 4,036,524). Applicant respectfully traverses this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 2 USPQ2d 1051, 1053, (Fed. Cir. 1987). Also, "All words in a claim must be considered in judging patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494. 496 (CCPA 1970).

Referring to the language of claim 1, specified is a seat including a seat portion and an attached seat back portion. Also specified is a top, which has a lower end and which is fitted over the seat back portion, and a bottom, which has a rearward end and which is fitted over the seat portion. An engagement assembly carried by one of the lower end of the top and the rearward end of the bottom is also specified. A complemental engagement assembly carried the other of the lower end of the top and the rearward end of the bottom is still further specified. The engagement assembly is detachably engaged to the complemental engagement assembly detachably engaging the lower end of the top to the rearward end of the bottom. The top supports first uniform adornment, the bottom supports second uniform adornment, and the first and second uniform adornments together forming the top and bottom as an identifying uniform of a member of an organization.

On page 3 of Paper No. 06222005, the examiner admits that Takamatsu fails to show the top and bottom supporting uniform adornment that identifies a member of an organization. Accordingly, because claim 1 now specifies that the top supports first uniform adornment, the bottom supports second uniform adornment, and that the first and

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second uniform adornments together form the top and bottom as an identifying uniform of a member of an organization, Takamatsu is not operative as a section 102 reference against claim 1. The section 102 rejection of claim 1 as being anticipated by Takamatsu is now believed to be moot and should be withdrawn.

Section 103 - Takamatsu and Vinson

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takamatsu in view of Vinson (U.S. Patent No. 4,296,498). Claim 2 is canceled, which renders moot the rejection of that claim. Applicant respectfully traverses the rejection of claim 3-5.

Claims 3-5 are dependent claims. Claim 1 was not rejected under section 103. Because the section 102 rejection of claim 1 is believed to be overcome by amendment, all of the claims now pending in this case are believed to be in condition for allowance, which action is earnestly solicited. Claims 1 and 3-5 will be discussed, nevertheless.

Claims 1 and 3-5

In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Further, a prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention. *W. L. Gore & Associates, Inc. v Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). "All words in a claim must be considered in judging patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494. 496 (CCPA 1970).

From the language of claim 1 it can be seen that several specific elements are included in the claimed architecture. First, a seat includes a seat portion and an attached seat back portion. Second, a top has a lower end and is fitted over the seat back portion. Third, a bottom has a rearward end and is fitted over the seat portion.

Fourth, an engagement assembly is carried by one of the lower end of the top and the rearward end of the bottom. Fifth, a complementary engagement assembly is carried the other of the lower end of the top and the rearward end of the bottom. Sixth, the engagement assembly is detachably engaged to the complementary engagement assembly detachably engaging the lower end of the top to the rearward end of the bottom. Seventh, the top supports first uniform adornment. Eighth, the bottom supports second uniform adornment. Ninth, the first and second uniform adornments together form the top and bottom as an identifying uniform of a member of an organization. Each of these elements specifically describes a feature or structure of the invention.

The nine basic elements of claim 1 are specific components of the claimed invention and specifically describe how the top and the bottom are arranged and attached to one another in relation to the seat portion and the seat back portion, and how the first and second uniform adornments together form the top and bottom as an identifying uniform of a member of an organization. As can be seen from the plain language of the claim, these

elements are not simply characteristics that occur naturally or inherently.

On page 3 of paper no. 06222005, the examiner states that Takamatsu shows the claimed invention but fails to show uniform adornment of the top and bottom that identifies a member of an organization. The examiner cites Vinson for teaching the use of a uniform top and bottom supporting uniform adornment that identifies a member of an organization, and concludes that it would have been obvious to modify the uniform top and bottom with adornment as taught by Vinson, in order to put the top on the occupant, show support of the organization, and to identify what team or organization the occupant is on. Applicant disagrees.

The references used to support a section 103 rejection must generally place the needed subject matter supporting the obviousness rejection in the public domain before the date of invention. *In re Zenitz*, 333 F.2d 924, 142 USPQ158, 160 (C.C.P.A. 1964). Also, the test for obviousness is not whether the features of one reference may be bodily incorporated into another reference. Rather, one consider whether the combined teachings render the claimed subject matter obvious. *In re Wood*, 599 F.2d 1032,

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202 USPQ 171, 174 (C.C.P.A. 1979) (emphasis added) (citing *In re Bozek*, 416 F.2d 1385, 1390, 163 U.S.P.Q. 545, 549-50 (C.C.P.A. 1969); *In re Mapelsden*, 329 F.2d 321, 322, 141 USPQ 30, 32 (C.C.P.A. 1964)). Furthermore, the incentive to combine the teachings of the references must be explained by the examiner if it is not readily apparent from the references. *Ex parte Skinner*, 2 USPQ 2d 1788, 1790 (B.P.A.I. 1987).

In the present case, the examiner's obviousness rejection fails for at least two reasons. First, the examiner relies on Vinson for teaching a top and a bottom, but failed to cite any structure or disclosure from Vinson in support thereof. Vinson teaches a one piece athletic jersey, which is a top. Missing in Vinson is a bottom. The examiner relies on Vinson for teaching a bottom, but does not cite one in Vinson, presumably because there simply is none. Accordingly, the examiner cannot rely on Vinson for teaching a bottom, for teaching a top and a bottom, and for teaching first and second uniform adornments supported by a top and a bottom that together form the top and bottom as an identifying uniform of a member of an organization. So, in this regard the examiner's section 103 rejection using Takamatsu and Vinson

fails.

The second reason the examiner's section 103 rejection fails is that the incentive to combine the teachings of Takamatsu and Vinson is not readily apparent from the references, and the examiner has not explained the incentive to combine Vinson with Takamatsu to arrive at the claimed invention. Takamatsu teaches a chair with a seat cover. Vinson teaches a one piece athletic jersey. There is no teaching in Takamatsu and/or Vinson of using the one piece athletic jersey in Vinson for any other purpose other than a garment to be worn by a user. There is no teaching in Takamatsu and/or Vinson of using the one piece athletic jersey in Vinson as a cover for a seat back of a seat. Moreover, there is no teaching in Takamatsu and/or Vinson providing the motivation or suggestion to combine Vinson with Takamatsu for providing first and second uniform adornments supported by a top and a bottom that together form the top and bottom as an identifying uniform of a member of an organization, in which the top is fitted over a seat back portion of a seat and the bottom is fitted over the seat portion of a seat. The only motivation for this comes directly from Applicant's specification and not from the references cited by the examiner.

The combination of Takamatsu with Vinson, if it were to be considered proper for the purpose of argument, cannot possibly render applicant's claims obvious because Vinson is utterly silent as to a bottom and is, therefore, not capable of showing first and second uniform adornments supported by a top and a bottom that together form the top and bottom as an identifying uniform of a member of an organization. An invention does not make itself obvious, that teaching or suggestion must come from the prior art and not from the applicant's specification as in the present case.

For the foregoing reasons, claims 1 and 3-5 are not obvious over Takamatsu in view of Vinson.

Conclusion

Applicant submits that the prior art of record does not disclose or suggest the invention as claimed. It is to be noted that some of the claimed features are known in the art, such as seat covers and uniforms. However, the specific combination of features is neither suggested nor

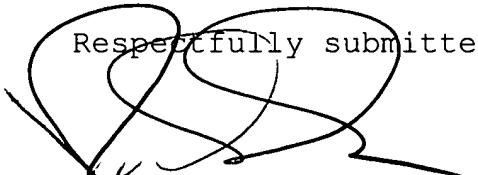
disclosed by the art of record, and the examiner has failed to show that the specific combination is suggested or disclosed by the art of record. The instant claims set forth language specifying a top fitted over a seat back portion of a seat, a bottom fitted over the seat portion of the seat, and first and second uniform adornments supported by the top and the bottom, respectively, together forming the top and bottom as an identifying uniform of a member of an organization. The prior art does not disclose or suggest such a combination. Therefore, the invention as claimed is believed to be allowable over the prior art of record in this case.

Applicant traverses each and every rejection set forth by the Examiner. Any particular rejection not specifically addressed is not to be deemed to be Applicant's agreement with, or Applicant's acquiescence to, Examiner's position or interpretation of the prior art. It is to be understood that Applicant's present response is for the purpose of overcoming the rejections of the subject matter set forth in the pending independent claim, in which the subject matter claimed therein is presently desirable to Applicant in the present application

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Dependent claims 3-5 add additional novel features and are, a-fortiori, patentable. Again for the record, the cited and non-applied subsidiary references have been noted and reviewed, but are submitted to be less relevant than the relied-upon references.

Examiner's thorough and thoughtful consideration of this application is sincerely appreciated.

Respectfully submitted,

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